



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2017-0170; FRL-9985-39-Region 10]

Air Plan Approval; ID, West Silver Valley PM_{2.5} Clean Data Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to determine that the West Silver Valley, Idaho nonattainment area has clean data for the 2012 annual fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS). This proposed clean data determination (CDD) is based upon quality-assured, quality-controlled, and certified ambient air monitoring data showing the area has attained the 2012 PM_{2.5} NAAQS based on the 2015-2017 data available in the EPA's Air Quality System (AQS) database. The EPA also proposes to take final agency action on the September 2017 wildfire exceptional event at the Pinehurst monitoring station, pursuant to EPA regulations, as having affected PM_{2.5} and PM₁₀ values. Based on the proposed clean data determination, the EPA is also proposing to determine that the obligation for Idaho to make submissions to meet certain Clean Air Act (CAA or the Act) requirements related to attainment of the NAAQS for this area are not applicable for as long as the area continues to attain the 2012 annual PM_{2.5} NAAQS.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2017-0170, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Justin Spenillo, at 206-553-6125, or spenillo.justin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever “we”, “us” or “our” are used, it is intended to refer to the EPA.

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I. Background

On December 14, 2012, the Environmental Protection Agency (EPA) promulgated a revised primary annual PM_{2.5} NAAQS to provide increased protection of public health from fine particle pollution (“2012 annual PM_{2.5} NAAQS”).¹ In that action, the EPA strengthened the primary annual PM_{2.5} standard, lowering the level from 15.0 micrograms per cubic meter (µg/m³) to 12.0 µg/m³. The 2012 annual PM_{2.5} NAAQS is attained when the 3-year average of the annual arithmetic means does not exceed 12.0 µg/m³. *See* 40 CFR 50.18 and 40 CFR part 50, appendix N. Effective April 15, 2015, the EPA made designation determinations, as required by section 107(d)(1) of the CAA, for the 2012 annual PM_{2.5} NAAQS.² In that action, the EPA designated the West Silver Valley area in Shoshone County, Idaho (WSV NAA) as moderate nonattainment for the 2012 annual PM_{2.5} NAAQS. *See* 40 CFR 81.313.

On March 26, 2018, the EPA issued a finding of failure to submit under section 110(k) of the CAA finding that several states, including Idaho, failed to submit specific moderate area SIP elements for the 2012 annual PM_{2.5} NAAQS required under subpart 4 of part D of Title I of the CAA.³ In particular, Idaho failed to submit the following specific moderate area SIP elements for the WSV NAA: an attainment demonstration; control strategies, including reasonably available control measures (“RACM”) and reasonably available control technologies (“RACT”); a reasonable further progress (RFP) plan; quantitative milestones; and contingency measures. This finding triggered the sanctions clock under Section 179 of the CAA, as well as an obligation under Section 110(c) of the CAA for EPA to promulgate a FIP no later than 2 years from the

¹ 78 FR 3086, January 15, 2013.

² 80 FR 2206.

³ 83 FR 14759.

effective date of the finding, if Idaho does not submit, and the EPA has not approved, the required SIP submission.

On August 24, 2016, the EPA issued the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements (“PM_{2.5} SIP Requirements Rule”).⁴ The PM_{2.5} SIP Requirements Rule is codified at 40 CFR part 51, subpart Z and provides rules for the implementation of current and future PM_{2.5} NAAQS.

Over the past 2 decades, the EPA has consistently applied its “Clean Data Policy” interpretation to attainment related provisions of subparts 1, 2, and 4 of the CAA. The EPA codified the approach in the Clean Data Policy in the PM_{2.5} SIP Requirements Rule (40 CFR 51.1015(a)) for the implementation of current and future PM_{2.5} NAAQS. *See* 81 FR 58010, 58161 (August 24, 2016). In accordance with 40 CFR § 51.1015, the EPA may issue a clean data determination for a specific area if the EPA determines the area has attained the relevant NAAQS based on 3 years of quality-assured, certified air quality monitoring data. For a complete discussion of the Clean Data Policy’s history and the EPA’s longstanding interpretation under the CAA, please refer to the August 24, 2016 PM_{2.5} SIP Requirements Rule (81 FR 58010).

As provided in 40 CFR 51.1015, so long as an area continues to meet the standard, finalization of a CDD suspends the requirements for a nonattainment area to submit an attainment demonstration, associated RACM and RACT, an RFP plan, quantitative milestones, contingency measures, and any other SIP requirements related to the attainment of the 2012 annual PM_{2.5} NAAQS. The requirement to submit a projected attainment inventory as part of an

⁴ 81 FR 58010, effective October 24, 2016.

attainment demonstration or RFP plan is also suspended by this determination. As discussed in the 2016 PM_{2.5} SIP Requirements Rule, the nonattainment base emissions inventory required by section 172(c)(3) of the CAA is not suspended by this determination because the base inventory is a requirement independent of planning for an area's attainment. *See* 81 FR 58009 at 58028 and 58127-8 and 80 FR 15340 at 15441-2. Additionally, as discussed in the PM_{2.5} SIP Requirements Rule, and required by sections 110(a)(2)(C); 172(c)(5); 173; 189(a), and 189(e) of the CAA, nonattainment New Source Review (NNSR) requirements are not suspended by a CDD because this requirement is independent of the area's attainment planning. *See* 81 FR 58010 at 58107 and 58127.

By extension, the requirement to submit a motor vehicle emissions budget (MVEB) for the attainment year for the purposes of transportation conformity is also suspended. A MVEB is that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting RFP milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions. For the purposes of the transportation conformity regulations, the control strategy implementation plan revision is the implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of RFP and attainment. Given that MVEBs are required to support the RFP and attainment demonstration requirements in the attainment plan, suspension of the RFP and attainment demonstration requirements through a CDD, also suspends the requirement to submit MVEBs for the attainment and RFP years. The suspension of planning

requirements pursuant to 40 CFR 51.1015, does not preclude the state from submitting suspended elements of its moderate area attainment plan for EPA approval for the purposes of strengthening the state's SIP.

The suspension of the obligation to submit such requirements applies regardless of when the plan submissions are due. A clean data determination is not equivalent to a redesignation, and the state must still meet the statutory requirements for redesignation in order to be redesignated to attainment.

In accordance with 40 CFR 51.1015(a)(1) and (2), the CDD suspends the aforementioned SIP obligations until such time as the area is redesignated to attainment, after which such requirements are permanently discharged; or the EPA determines that the area has re-violated the PM_{2.5} NAAQS, at which time the state shall submit such attainment plan elements for the moderate nonattainment area by a future date to be determined by the EPA and announced through publication in the Federal Register at the time the EPA determines the area is violating the 2012 annual PM_{2.5} NAAQS.

II. Clean Data Determination for the West Silver Valley, Idaho Nonattainment Area

Air Quality Data

Under the EPA regulations at 40 CFR 50.18 and part 50, appendix N, the 2012 annual PM_{2.5} NAAQS is met when the 3-year average of PM_{2.5} annual mean mass concentrations for each eligible monitoring site is less than or equal to 12.0 µg/m³. Three years of valid, annual means are required to produce a valid annual PM_{2.5} NAAQS design value. A year of data meets data completeness requirements when quarterly data capture rates for all four quarters are at least 75 percent from eligible monitoring sites. *See* 40 CFR part 50, appendix N. There is one PM_{2.5}

eligible monitoring site in the WSV NAA, located in Pinehurst, Idaho. Table 1 shows the WSV NAA design value for the 2012 annual PM_{2.5} NAAQS for the years 2015-2017 at that Pinehurst, Idaho monitoring site.

Table 1 – 2015-2017 Annual PM_{2.5} Values for West Silver Valley, Shoshone, Idaho

Monitor ID	Weighted Mean (µg/m ³)			Complete Quarters			Certified Annual Design Value 2015-2017 (µg/m ³)
	2015	2016	2017	2015	2016	2017	
160790017	13.6	9.3	12.3	4	4	4	11.7

Consistent with the requirements contained in 40 CFR part 58, the EPA has reviewed the PM_{2.5} ambient air quality monitoring data for the monitoring period from 2015 through 2017 for the WSV NAA, as recorded in the AQS database, and has determined the data meet the quality assurance requirements set forth in part 58. In this respect, the data have been deemed usable by the EPA for regulatory compliance purposes. As shown in Table 1, each quarter from 2015 through 2017 is complete with all four quarters reporting data capture rates of at least 75 percent. The certified annual design value for 2015-2017 is 11.7 µg/m³, which is below the 2012 annual PM_{2.5} standard of 12.0 µg/m³. Therefore, the WSV NAA has attained the 2012 annual PM_{2.5} NAAQS in accordance with the requirements in 40 CFR part 50, section 50.18 and appendix N.

Exceptional Event

The CAA allows for the exclusion of air quality monitoring data from design value calculations when there are exceedances caused by events, such as wildfires or high wind events, that meet the criteria for an exceptional event identified in the EPA's implementing regulations, the Exceptional Events Rule at 40 CFR 50.1, 50.14 and 51.930. In 2017, emissions from multiple

wildfires in the Pacific Northwest impacted PM_{2.5} and PM₁₀ concentrations recorded at the Pinehurst monitor within the WSV NAA. For purposes of this proposed action, on August 10, 2018, the Idaho Department of Environmental Quality (IDEQ) submitted an exceptional event demonstration to request exclusion of the 2017 data impacted by wildfires. The EPA evaluated the IDEQ's exceptional event demonstration for the flagged values of the 24-hour PM_{2.5} and PM₁₀ listed in Table 2, at the monitor in Pinehurst, Idaho, with respect to the requirements of the EPA's Exceptional Events Rule (40 CFR 50.1, 50.14, and 50.930). The EPA determined the event and the IDEQ's demonstration met the exceptional event rule requirements.

Table 2. 24-hr PM_{2.5} and PM₁₀ Values at the Pinehurst monitoring station, concurred on by the EPA as Meeting the Exceptional Event Criteria

Date	24-hr PM_{2.5} Concentration (µg/m³) 16-079-0017 POC1	24-hr PM₁₀ Concentration (µg/m³) 16-079-0017 POC3
9/4/2017	144.9	-----
9/5/2017	222.2	-----
9/6/2017	147.1	169.6
9/7/2017	123.8	149.8
9/8/2017	116.7	143.7

On August 24, 2018, the EPA concurred with the IDEQ's request to exclude event-influenced data listed in Table 2. As such, the event-influenced data have been removed from the data set used for regulatory purposes. For this proposed action, the EPA relies on the calculated values that exclude the event-influenced data (see Table 1, above). The EPA now proposes to take final regulatory action on the IDEQ's request to exclude PM₁₀ and PM_{2.5} data listed in Table 2, in regulatory decisions. For further information, refer to the IDEQ's Exceptional Event

demonstration package and the EPA's concurrence and analysis located in the docket for this proposed action.

III. The EPA's Proposed Action

Pursuant to the Clean Data Policy codified at 40 CFR 51.1015(a), the EPA proposes to determine that based on 3-years of certified, valid monitoring data between 2015 and 2017, the WSV NAA has attained the 2012 annual PM_{2.5} NAAQS. The EPA also proposes to take final agency action on the wildfire exceptional event that affected the Pinehurst monitor as listed in Table 2 for both PM_{2.5} and PM₁₀. Pursuant to 40 CFR 51.1015(a), and based upon our proposed determination that the WSV NAA has attained the standard, the EPA proposes to determine that the obligation to submit any attainment-related SIP revisions arising from classification of the WSV NAA as a moderate nonattainment area under subpart 4 of part D, of title I of the Act for the 2012 annual PM_{2.5} NAAQS is not applicable for so long as the area continues to attain the 2012 annual PM_{2.5} NAAQS. In particular, if the EPA finalizes this determination, it will suspend the requirements for the area to submit an attainment demonstration, RACM and RACT, RFP plan, quantitative milestones, contingency measures, and any other SIP requirements related to the attainment of the 2012 annual PM_{2.5} NAAQS, so long as the area continues to meet the standard. If today's action is finalized as proposed, the sanctions and FIP clocks triggered by the EPA's March 26, 2018, finding of failure to submit will be suspended. *See* 83 FR 14759.

This proposed determination of attainment does not constitute a redesignation to attainment. The WSV NAA will remain designated nonattainment for the 2012 annual PM_{2.5} NAAQS until the EPA determines the WSV NAA meets the CAA requirements for redesignation to attainment, including an approved maintenance plan, pursuant to sections 107

and 175A of the CAA. The EPA is soliciting public comments on EPA’s proposed action. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

This action proposes to exclude certain air quality monitoring data from design value calculations and suspend certain federal requirements, and thus would not impose additional requirements beyond those imposed by state law. For these reasons, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP obligations discussed herein do not apply to Indian tribes and, thus, this proposed action will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 et seq.

Dated: October 3, 2018.

Chris Hladick,
Regional Administrator,
Region 10.

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